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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,956	08/21/2003	Stefan Fuchs	076326-0262	7600

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FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

EXAMINER

ILAN, RUTH

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/644,956

Applicant(s)

FUCHS ET AL.

Examiner

Ruth Ilan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/21/03 and 1/12/0</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Objections

2. Claim 4 is objected to because of the following informalities: In claim 4, line 3, after the first "the", the second instance of "on the" should be deleted. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 8 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 8 recites "wherein the first and/or the second guide member has at least one stop. As disclosed, only the first guide member, that is the long hole 20 has stops, which are the two end edges. There is no disclosure of the pin having stops. As such the "and" part of the and/or phrase does not have support in the specification or drawings.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 5, 11, and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 5 is unclear because it inaccurately describes the invention. Claim 5 recites, "wherein the two guide members extend essentially in the direction of the tube axis". Based on the specification, only one of the guide members, i.e., the elongated hole 20 extends in the direction of the tube axis. The other guide element travels in the direction of the tube axis, but does not extend in this direction, it extends perpendicular to the tube axis. For the purposes of examination, it will be assumed that what is intended is that one of the guide members extends in the direction of the tube axis, and one acts along that direction. Claim 11 is confusing. Claim 11 recites that the "deformation element is arranged so that the tubular gas generator is braced between a stop and the fastening element." It is unclear what is intended by this limitation, and there is not one to one correspondence between the claimed elements and the disclosed invention. The gas generator is not braced between the stop and the fastening element, because the stop is part of the fastening element. The Examiner directs the Applicant's attention to paragraph [0017] of the specification, which indicates that the deformation element 3 braces the tubular gas generator 1 with respect to the fastening element 2. The tubular gas generator is blocked by the stop in one displacement direction and by the deformation element in the other displacement direction (see top of page 6.) Claim 13 is indefinite because it is a range within a range. A broad range or limitation together with a narrow range or limitation that falls within the

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broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 13 recites the broad recitation "further components of the air bag unit, and the claim also recites "in particular a diffuser and/or a gas bag" which is the narrower statement of the range/limitation.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Kanda (US 5,730,459.) Kanda teaches an air bag unit for a motor vehicle including a tubular gas generator (8) having a tube axis (through the center) that points in the direction of the vehicle interior (out of the steering column) and a deformation element (10₅- see

Figure 5 and col. 2, lines 32-35) and a fastening element (3₁) for tying the gas generator to the motor vehicle. The deformation element is arranged between the fastening element and the gas generator. There are guide members (14 and 10₄) guiding the generator along a defined displacement path. The guide member 14 is a pin located on the fastening element, and the guide member 10₄ is located on the tubular gas generator (via lid 10 and rivet 15, see Figure 4) and is a long hole. Regarding claim 5, as best understood based on the 112 2nd interpretation noted above, one of the guide members (the elongated hole) extends in the direction of the tube axis. The displacement path is in a direction away from the vehicle occupant (since it is in the direction opposite to the front of the steering wheel.) The guide member 10₄ has two stops, which are the arcuate ends of the holes. Regarding claim 9, displacement is prevented when the gas generator is subject to a force which is lower than a predetermined force (that is any force lower than the one required to bend the deformation element 10₅). Regarding claim 13, a housing (11) receives a gas bag (9.) Regarding claim 11, as best understood, the deformation element 10₅ is arranged so that the gas generator movement is blocked by the element in one direction and by the stop (bottom edge of the elongated hole) in the other direction, absent a force sufficient to bend the deformation element.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Faigle et al. and Sheperd et al. teach mounting deformable elements of interest.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth Ilan whose telephone number is 571-272-6673.

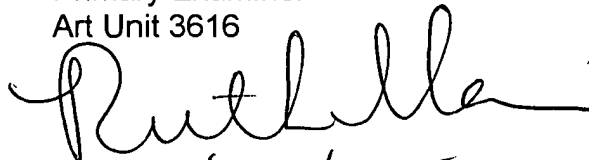
The examiner can normally be reached on Monday-Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RI
6/13/05

Ruth Ilan
Primary Examiner
Art Unit 3616



6/13/05